

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

THOMAS D. DEMARTINO

Plaintiff,

v.

STATE OF NEW JERSEY, et al.

Defendant.

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Civil Action No. 12-3849 (FSH)

ORDER

This matter having come before the Court by way of plaintiff's motion for default judgment against all defendants and defendant DeCastro's motion for an extension of the deadline to Answer, move , or otherwise respond to the Complaint;

and the Court having reviewed the docket;

and it appearing that such a motion is procedurally premature because, among other things, there is no proof on the docket that the defendants (other than defendant DeCastro, see ECF No. 7) have been served and hence a predicate for seeking default is not established;

and there having been and could not be the entry of default pursuant to Fed. R. Civ. P. 55(a), absent such proof of service;

and the entry of default being a condition to filing a motion for default judgment;

and the docket reflecting that defendant DeCastro has filed a motion for an extension of the deadline to file an Answer and hence intends to defend;

and the Court finding good cause exists to permit such an extension as it will enable the defendant to investigate the claims made and lodge any appropriate defenses;

and allowing for the extension being consistent with the preference of the Court of

Appeals for the Third Circuit to resolve cases on their merits, see, e.g., Hritz v. Woma Corp., 732 F.2d 1178, 1181 (3d. Cir. 1984);

and granting the thirty-day extension not prejudicing the plaintiff;

IT IS THEREFORE ON THIS 21st day of November, 2012

ORDERED that the motion for default judgment [ECF No. 8] is denied at this time as procedurally premature; and

IT IS FURTHER ORDERED that the motion of defendant DeCastro for an extension of the deadline to Answer, move or otherwise respond to the Complaint is granted and she shall do so no later than **December 21, 2012.**

s/Patty Shwartz
UNITED STATES MAGISTRATE JUDGE